

Examiner Interview

Applicant's Attorney, Examiner Johnson, and Primary Examiner Neveen Abel-Jalil participated in a telephone interview on April 2, 2008. Applicant's Attorney hereby submits a summary of the interview.

During the interview, there was no exhibit or demonstration of the invention provided. However, there was a proposed amendment to the claims presented to the Examiners prior to the interview.

The claims discussed during the interview included outstanding claims 1 and 8. This interview took place following issuance of a Non-Final Office Action. Aside from the proposed claim amendments, Applicant's Attorney discussed the shortcomings of the combined prior art references in failed to teach the two step validation process **prior** to a new cluster member joining the cluster. Examiners Johnson and Abel-Jalil requested that the second clause of the independent claim be re-arranged to bring out this element. However, it was indicated that such an amendment would not change the scope of the claim as these limitations are currently present therein.

With respect to the claim amendment proposals presented, the Examiners agreed that such limitations should be allowable over the prior art of record.

REMARKS

In the Office Action dated January 8, 2008, claims 1-12, 14, 16-19, and 21-23 were presented for examination. Claims 1 and 8 were rejected under 35 U.S.C. §101, and claims 1-12, 14, 16-19, and 21-23 stand rejected under 35 U.S.C. §103(a).

I. Rejection Under 35 U.S.C. §101

In the Office Action dated January 8, 2008, the Examiner assigned to the application rejected claims 1 and 8 under 35 U.S.C. §101, as failing to produce a useful, concrete and tangible result. More specifically, with respect to claim 1, the Examiner indicated that this claim is directed to a method that includes a validation step, and has requested a further step to indicate the results of the validation. Applicant has amended claim 1 to indicate that a new cluster member joins the cluster in response to a determination of software compatibility. With respect to claim 8, the Examiner indicated that this is an apparatus claim with insufficient support for the hardware elements. It was requested that Applicant amend claim 8 to include hardware elements for the apparatus. Applicant has amended claim 8 to indicate that the nodes therein include a processor and memory, and the location of the manager with respect to the nodes. No new matter has been added to the application with the amendments to claims 1 and 8 presented herein. Accordingly, Applicant respectfully requests removal of the rejections of claims 1 and 8 under 35 U.S.C. §101 and that the Examiner grant allowance thereof.

II. Rejection Under 35 U.S.C. §103(a)

In the Office Action dated January 8, 2008, the Examiner assigned to the application rejected claims 1-12, 14, 16-19, and 21-23 under 35 U.S.C. §102(b) as being anticipated by *Short et al.*, U.S. Patent No. 6,178,529, in view of *Szabo et al.*, U.S. Patent No. 7,065,746, and further in view of *Frank et al.*, U.S. Patent No. 6,871,222.

Applicant's remarks to *Short et al.* and *Szabo et al.* in the prior communication(s) are hereby incorporated by reference.

It is the Examiner's position that combination of *Short et al.* and *Szabo et al.* teach all of the limitations of the independent claims with the exception of the clause that pertains to

validating software compatibility of a new cluster member prior to joining the cluster. The Examiner employs *Frank et al.* to support this omitted limitation. *Frank et al.* pertains to a method and apparatus for implementing a quorumless cluster. Membership to the cluster can be predicated on having access to shared storage. However, *Frank et al.* does not teach or suggest validating software compatibility of a prospective new cluster member with the version control record prior to the prospective member joining the cluster. As noted by the Examiner, *Frank et al.* does teach use of a disk header record, see Col. 4, lines 1-15, and a version number, see Col. 6, lines 23-26. However, *Frank et al.* does not teach use of the version number to determine software compatibility prior to a prospective member joining a cluster.

As reflected in Applicant's claims 1, 8, and 14, Applicant employs two separate elements between the new cluster member and the shared storage to test validation. A first test employs the disk header record of a shared resource, and a second test employs the version control record of the shared resource. The disk header record and the version control record are two separate elements associated with the shared resource. The disk header record is employed to determine compatibility with a server node. In contrast, the version control record is employed to determine compatibility of a server node with data structures within the shared resource. The disk header and the version control record are separate elements pertaining to the shared resource, and they are employed separately to determine compatibility with a server node prior to the server node joining the cluster.

It is Applicant's position that the combination of *Short et al.*, *Szabo et al.*, and *Frank et al.* do not teach all of the elements of Applicant's pending claims, and specifically, claims 1, 8, and 14 based upon the prior amendments to the claims presented and considered by the Examiner. There is no teaching in *Short et al.*, *Szabo et al.*, or *Frank et al.* to provide all of the elements of the claims as amended. It is the standard in the law that, to establish a prima facie case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations."¹ Because *Short et al.*, *Szabo et al.*, and *Frank et al.* individually or in combination do not teach the elements of claims 1, 8, and 14, in their entirety,

¹ MPEP §2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

it is Applicant's position that the prior art rejection should be removed. Accordingly, Applicant respectfully requests that the Examiner remove the rejection of claims 1-12, 14, 16-19, and 21-23 under 35 U.S.C. §103(a) and direct allowance thereof.

III. Conclusion

Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. No new subject matter has been added to the application with the amendment to the claims presented herewith. Furthermore, Applicant is not conceding in this application that the claims are not patentable over the art cited by the Examiner, as the present amendments are only for facilitating expeditious prosecution of the allowable subject matter noted by the Examiner. Applicant respectfully reserves the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Accordingly, Applicant respectfully requests that the Examiner indicate allowability of claims 1-12, 14, 16-19, and 21-25, and that the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is hereby invited to telephone the undersigned at the number provided.

For the reasons outlined above, withdrawal of the rejection of record and an allowance of this application are respectfully requested.

Respectfully submitted,

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